

# AGENDA



## BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 13, 2010

7:00 P.M.

### COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO  
DISTRICT 2 – DARRYL MOORE  
DISTRICT 3 – MAX ANDERSON  
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – KRISS WORTHINGTON  
DISTRICT 8 – GORDON WOZNAK

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Deanna Despain, City Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

*In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.*

## **Consent Calendar**

*The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

*After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.*

- 1. Amendment to Drinking in Public Ordinance, BMC Section 13.36.070**  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance No.7,149–N.S. amending Berkeley Municipal Code Section 13.36.070 regarding drinking in public.  
**Financial Implications:** None  
**First Reading Vote:** Ayes – Maio, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Absent - Moore  
Contact: Zach Cowan, City Attorney, 981-6950
- 2. Ordinance Clarifying Limitations Period for Tax Collection**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No.7,150–N.S. adding Chapter 7.22 of the Berkeley Municipal Code, clarifying when the limitations period for collecting City taxes begins.  
**Financial Implications:** See report  
**First Reading Vote:** Ayes – Maio, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Absent - Moore  
Contact: Zach Cowan, City Attorney, 981-6950
- 3. City Manager Recess Authority to Increase FY 2011 Community Agency Advances**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase FY 2011 advances to community agencies, not to exceed the authorized allocation, for those agencies included in the FY 2011 Adopted Budget and subject to the conditions set forth in the budget Resolution, including meeting specific performance criteria.  
**Financial Implications:** See report  
Contact: Tracy Vesley, Budget Manager, 981-7000

## Consent Calendar

- 4. Schedule Worksession: Citywide Workplan in Light of Staffing and Budget Reductions and authorize the City Manager to respond to State Budget Actions during Council Recess**  
**From: City Manager**  
**Recommendation:** Schedule a Worksession in October, 2010 to discuss the Citywide Workplan in light of staffing and budget reductions; and authorize the City Manager to respond to State budget actions during Council recess, including increasing any pass-through surcharges to compensate for increases imposed by the State.  
**Financial Implications:** See report  
Contact: Phil Kamlarz, City Manager, 981-7000
- 5. Appointment of Director of Health Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming the appointment of Beth Myerson as Director of Health Services to be effective August 8, 2010.  
**Financial Implications:** See report  
Contact: Christine Daniel, Deputy City Manager, 981-7000
- 6. Confirming the Results of the June 8, 2010 Special Municipal Election**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming the results of the June 8, 2010 Special Municipal Election for Measure C - The Berkeley Pools Bond.  
**Financial Implications:** None  
Contact: Deanna Despain, City Clerk, 981-6900
- 7. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$825,000  
Contact: Robert Hicks, Finance, 981-7300
- 8. Fair Trade Policy**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution supporting a fair trade policy for the City of Berkeley.  
**Financial Implications:** Unknown  
Contact: Robert Hicks, Finance, 981-7300

## Consent Calendar

- 9. Contract No. 8105 Amendment: Human Propelled Solutions dba Pedal Express**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to increase the current contract with Human Propelled Solutions dba Pedal Express, a bicycle courier service, by \$40,400 to an amount not to exceed \$87,900 through the end of FY11.  
**Financial Implications:** Various Funds - \$87,900  
Contact: Robert Hicks, Finance, 981-7300
- 10. Contract No. 6841 Amendment: United Pharmacy for Prescription Psychiatric Medications**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 6841 with United Pharmacy for the provision of prescription psychiatric medications to increase the amount by \$207,959 for a total contract amount not to exceed \$1,172,877, and to extend the expiration date to June 30, 2011.  
**Financial Implications:** Various Funds - \$207,959  
Contact: Peggy Gibbons, Health Services, 981-5100
- 11. Contract No. 7345 Amendment : Fred Finch Youth Center and Contract No. 7338 Amendment: Youth Engagement Advocacy Housing (YEAH) for Community-Based Mental Health Services**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute amendments to 1) Contract No. 7345 with Fred Finch Youth Center for the provision of intensive mental health support services for youth to increase the amount by \$143,675 for a total contract amount not to exceed \$582,285 and to extend the term to June 30, 2011, and 2) Contract No. 7338 with Youth Engagement Advocacy Housing (YEAH) for the provision of mental health services and supports for transition aged youth to increase the amount by \$101,768 for a total contract amount not to exceed \$407,906, and to extend the term to June 30, 2011.  
**Financial Implications:** See report  
Contact: Peggy Gibbons, Health Services, 981-5100
- 12. Classification: Paralegal**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to amend Resolution No. 64,175-N.S., Classification and Salary Resolution for Unrepresented Employees to establish the classification of Paralegal with a monthly salary range of \$5,184 - \$6,212, effective July 11, 2010.  
**Financial Implications:** Various Funds - \$96,795  
Contact: David Hodgkins, Human Resources, 981-6800

## Consent Calendar

- 13. Contract No. 8259 Amendment: Premier COMP Medical Group**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Premier COMP Medical Group, Contract No. 8259, for occupational health annual and pre-employment medical examinations for all sworn fire personnel and to add a wellness/fitness component to the existing annual physicals. The amendment extends the term of the contract from September 30, 2010 to September 30, 2012 and will increase expenditure authority by \$130,001 to an amount not to exceed \$180,000 through September 30, 2012.  
**Financial Implications:** General Fund - \$130,001  
Contact: David Hodgkins, Human Resources, 981-6800
- 14. Memorandum of Understanding – Berkeley Fire Fighters Association/I.A.F.F. Local 1227**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute and implement a new two-year Memorandum of Understanding with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 (hereinafter referred to as the “Association”) with a term of June 27, 2010 through June 23, 2012 that includes no adjustments to salaries during the term of the agreement but contains several changes in benefits and terms and conditions of employment.  
**Financial Implications:** See report  
Contact: David Hodgkins, Human Resources, 981-6800
- 15. Acquisition of a Library Bookvan and Redesignation of a 25'-0" Yellow-Curbed Parking Zone on Bancroft Way to Exclusive Grey-Curbed Library-Use Only Parking**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to authorizing the City Manager to execute a purchase order with OBS Inc. of Canton, Ohio for the acquisition of a van configured for the provision of mobile library services during the closure periods of the four branch libraries while undergoing construction related to the Measure FF funded Branch Libraries Improvement Program in an amount not to exceed \$83,200 and to redesignate a 25'-0" yellow-curbed parking zone on Bancroft Way to a grey-curbed zone for exclusive Library-use only parking.  
**Financial Implications:** Measure FF Fund - \$83,200  
Contact: Donna Corbeil, Library, 981-6100
- 16. Contract: Gilman Fields - Phase 2A Construction**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution 1) Approving plans and specifications for the Gilman Fields Project , (bid spec. no. 10-10464-C); 2) Authorizing the City Manager or his designee to execute a construction contract and any amendments, extensions or other change orders to the lowest responsive, responsible bidder during the Council Summer 2010 recess in order to complete the project in accordance with the approved plans and specification; and authorizing a total amount not to exceed \$720,000 for the construction contract bid amount and contingency.  
**Financial Implications:** See report  
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700

## Consent Calendar

- 17. Grant Applications to CalRecycle for All Hazardous Waste Grants Including Extension of the Used Oil Payment Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing staff to submit applications to and accept grant funds and execute any resultant grant agreement with the Department of Resource Recycling and Recovery (CalRecycle) for the Used Oil Payment Program and other hazardous waste grants.  
**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400
- 18. Agreement Between the City of Berkeley and Alta Bates Medical Center Regarding Parking Enforcement by use of Mobile License Plate Reader**  
**From: City Manager**  
**Recommendation:** Adopt Resolution authorizing the City Manager to accept the donation of one ELSAG Parking Enforcement License Plate Reader system from Alta Bates Medical Center to enhance the enforcement of residential parking rules in the 14-block residential area ("Core Area" as defined in the use permit) surrounding the Alta Bates Medical Center.  
**Financial Implications:** See report  
Contact: Michael Meehan, Police, 981-5900
- 19. Contract: 2010-11 Department of Alcoholic Beverage Control Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a grant contract and any subsequent amendments with the State of California to accept Fiscal Year 2011 Department of Alcoholic Beverage Control (ABC) Grant funding in the amount of \$78,378 and appropriate the funds to enforce laws to prohibit furnishing alcohol to minors and possession of alcohol by persons under the age of 21, as well as other alcohol-related crimes.  
**Financial Implications:** Alcoholic Beverage Control Grant - \$78,378  
Contact: Michael Meehan, Police, 981-5900
- 20. Contract: Sloan/Vazquez LLC for Assessment of the Solid Waste Management Division**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Sloan/Vazquez LLC to provide an assessment of the Solid Waste Division for an amount not to exceed \$74,500 for the period July 14, 2010 to December 31, 2010.  
**Financial Implications:** Refuse Fund - \$74,500  
Contact: Claudette Ford, Public Works, 981-6300
- 21. Contract: Structural Group, Inc. for Transfer Station Tipping Floor Abrasion**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the execution of a contract and any amendments with Structural Group, Inc., for the repair of the Transfer Station tipping floor in an amount not to exceed \$226,980.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300

## Consent Calendar

- 22. Contract No. 7429 Amendment: W. R. Forde Associates for Aquatic Park Cleaning Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7429 with W.R. Forde Associates for Aquatic Park Cleaning for disposal of spoils and site stabilization to complete the Aquatic Park Cleaning Project, increasing the contract by \$250,000 for a total not to exceed \$415,125 for all services.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300
- 23. Contract No. 7198B Amendment with SCS Field Services for Cesar Chavez Park Landfill Post-Closure Monitoring and Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7198B with SCS Field Services for engineering services for landfill post-closure monitoring and maintenance at Cesar Chavez Park, increasing the amount by \$545,000 for a total not to exceed \$1,226,826, and extending the expiration date to September 30, 2012.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300
- 24. Grant: Safe Routes to School for Emerson Elementary School et al**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit grant applications to the Caltrans Safe Routes to School program for traffic safety improvements around three Berkeley public schools (Emerson Elementary School, John Muir Elementary School and Martin Luther King Middle School) totaling \$857,167; and accept the grants awarded, and execute any resultant agreements and amendments.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300
- 25. Contract No. 8112 Amendment: Blackshear Construction for the Design/Build of the Fire Warehouse**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8112 with Blackshear Construction, increasing the contract by \$440,000 for a total contract amount not to exceed \$1,704,185 for all services.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300

## Consent Calendar

26. **Contract No. 8353 Amendment: D'Arcy & Harty Construction, Inc. for Sanitary Sewer Project on Derby Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 8353 with D'Arcy & Harty Construction, Inc. for urgent sanitary sewer rehabilitation on Derby Street between Shattuck Avenue and Ellsworth Street, increasing the amount by \$657,500 for a total amount not to exceed \$1,200,000.  
**Financial Implications:** Sanitary Sewer Fund - \$657,500  
Contact: Claudette Ford, Public Works, 981-6300
27. **Contract No. 7810 Amendment: Noll & Tam Architects and Planners for Architectural Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7810 in an amount not to exceed \$63,000 with Noll & Tam Architects and Planners for architectural services for the 830 University Health Building and South Berkeley Senior Center Fire Alarm and ADA upgrades, for a total contract not to exceed \$163,000 and extend the period fifteen months through September 30, 2011.  
**Financial Implications:** Various Funds - \$63,000  
Contact: Claudette Ford, Public Works, 981-6300
28. **Contract No. 7766 Amendment: Kappe + Du Architects for Architectural Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7766 with Kappe + Du Architects for architectural services for upgrades to Fire Station No. 5 and Civic Center Building and Public Safety Building Data Centers upgrades, increasing the contract by \$135,000 for a total not to exceed \$235,000 and extending the period fifteen months through September 30, 2011.  
**Financial Implications:** Various Funds- \$135,000  
Contact: Claudette Ford, Public Works, 981-6300
29. **Audit: Efficiency and Transparency of Contract Fiscal Management Needs Improvement**  
**From: Auditor**  
**Recommendation:** Request the City Manager to report back on or before January 18, 2011 on the implementation status of each of the City Auditor's recommendations in the attached report. Report back no later than every six months, thereafter, until all recommendations have been fully implemented.  
**Financial Implications:** See report  
Contact: Ann-Marie Hogan, Auditor, 981-6750

## Consent Calendar

30. **Support of H.R. 898—Democracy in Burma and Opposition to Crimes Against Humanity**  
**From: Peace and Justice Commission**  
**Recommendation:** Direct the City Clerk to send a letter to Representative Barbara Lee urging her to co-sponsor House Resolution 898 to support democracy and action to end the crimes against humanity taking place in Burma today.  
**Financial Implications:** See report  
Contact: Eric Brenman, Commission Secretary, 981-5100
31. **Opposition to Burmese Military Regime's Illegitimate 2010 Election**  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt a Resolution to reject the Burmese military regime's 2010 illegitimate election.  
**Financial Implications:** See report  
Contact: Eric Brenman, Commission Secretary, 981-5100

## Council Consent Items

32. **Appointment of Richelieu Hemphill to the Berkeley Housing Authority**  
**From: Mayor Bates**  
**Recommendation:** Adopt a Resolution approving the appointment of Richelieu Hemphill to the vacant position on the Berkeley Housing Authority (BHA).  
**Financial Implications:** None  
Contact: Tom Bates, Mayor, 981-7100
33. **Supporting California Air Resources Board's Leadership in the Development of Programs to Reduce Greenhouse Gas Emissions and Air Pollution in California**  
**From: Mayor Bates**  
**Recommendation:** Adopt a Resolution supporting the State of California and the California Air Resources Board leadership in developing and adopting expanded Low Emission Vehicle (LEV III) standards to reduce criteria air pollutants and greenhouse gases and to strengthen the state's zero emission vehicle program to protect the health of California's economy, environment and its people.  
**Financial Implications:** None  
Contact: Tom Bates, Mayor, 981-7100
34. **Opposition to State Water Bond**  
**From: Mayor Bates**  
**Recommendation:** Adopt a Resolution in opposing the State Water Bond, euphemistically called the Safe, Clean and Reliable Drinking Water Supply Act of 2010, and request the State Legislature to remove the bond measure from the November 2010 ballot because it will further increase the State's already over-burdened debt capacity.  
**Financial Implications:** None  
Contact: Tom Bates, Mayor, 981-7100

## Council Consent Items

- 35. Proposal for the Metropolitan Transportation Commission's (MTC) Bay Area Climate Initiative Grants**  
**From: Mayor Bates**  
**Recommendation:** Grant the City Manager authority to make the necessary changes in program design, development and budget and submit a full grant proposal by the July 30 deadline to MTC Climate Initiative Grants-Innovation Grant for a two-year implementation project that will reduce greenhouse gas emissions resulting from vehicles.  
**Financial Implications:** None  
Contact: Tom Bates, Mayor, 981-7100
- 36. Official City Sponsorship of the ARTSPARK! Festival**  
**From: Councilmembers Moore and Anderson**  
**Recommendation:** Approve City sponsorship of the ARTSPARK! Festival  
**Financial Implications:** None  
Contact: Darryl Moore, Councilmember, District 2, 981-7120
- 37. Referral to City Manager and 4x4 Committee: Anti-Harassment Policy**  
**From: Councilmember Arreguin**  
**Recommendation:** Refer to the City Manager and to the 4x4 City Council/Rent Board Joint Committee on Housing the creation of an Anti-Harassment Ordinance, to define and prohibit the harassment of tenants in the City of Berkeley.  
**Financial Implications:** Unknown  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 38. Referral to Community Environmental Advisory Commission: Sustainable Seafood**  
**From: Councilmember Arreguin**  
**Recommendation:** Refer to the Community Environmental Advisory Commission for study the issue of sustainable seafood and labeling requirements of fresh or frozen fish and request that the Community Environmental Advisory Commission return to Council with a recommendation for a process to educate the public and possible labeling requirements within 90 days.  
**Financial Implications:** Unknown  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 39. Referral to City Manager and Community Health Commission: Tobacco Free School Zones**  
**From: Councilmember Arreguin**  
**Recommendation:** Refer the proposed ordinance to the City Manager and Community Health Commission, to prohibit the sale of tobacco near schools and request that the Zoning Adjustments Board review the proposal and make a recommendation to the City Council within 90 days.  
**Financial Implications:** Unknown  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

## Council Consent Items

- 40. Referral to Housing Advisory Commission: Tenant Screening Fees**  
**From: Councilmember Arreguin**  
**Recommendation:** Refer the proposed ordinance to the City Manager and Housing Advisory Commission to prohibit the charging of fees to potential tenants as a condition of consideration and request that the Housing Advisory Commission review the proposal and make a recommendation to the City Council within 90 days.  
**Financial Implications:** Unknown  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 41. Supporting Food and Water Watch's Spill The Truth Campaign to Temporarily Shut Down The BP Atlantis Oil Rig** *(Continued from June 29, 2010)*  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to President Barack Obama, urging him to direct Secretary of the Interior Ken Salazar to temporarily shut down the BP Atlantis oil platform until federal regulators can prove the rig operates safely.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 42. Support U.S. Labor Against the War by Adopting a Resolution Condemning the War**  
**From: Councilmembers Worthington, Anderson and Arreguin**  
**Recommendation:** Adopt a Resolution, supporting U.S. Labor Against the War in their effort to end the Wars in Iraq and Afghanistan by increasing pressure from local and state governments on Congress.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 43. State Legislation to Bar All Utility Companies Including PG&E from Spending Ratepayer Revenue on Political Campaigns**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution supporting Senator Mark Leno's proposed bill, which seeks to bar all utility companies including PG&E from using ratepayer revenues to fund political campaigns.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 44. Opposing the Proposed Comcast-NBC Universal Merger**  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to the Federal Communications Commission (FCC) and Justice Department Anti-trust Division urging opposition to the proposed Comcast-NBC merger.  
**Financial Implications:** Minimal  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Council Consent Items

### 45. Raising the Ethiopian Flag on the Annual Enkutatash Festival

**From: Councilmembers Worthington and Arreguin**

**Recommendation:** Co-sponsor the Enkutatash Festival to celebrate the Ethiopian New Year and allow the Ethiopian Flag to be raised on Saturday, September 04, 2010.

**Financial Implications:** None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Action Calendar

*After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.*

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

## Action Calendar – Public Hearing

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

### 46. North Shattuck Business Improvement District

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt two resolutions: 1) Confirming the Annual Report of the North Shattuck Business Improvement District (NSBID) (Exhibit A) for Fiscal Year 2010 and levying assessments in the District for Fiscal Year 2011, and upon approval; 2) Authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association to implement the District Management Plan and approve the FY 2011 Work Plan for the NSBID.

**Financial Implications:** See report

Contact: Michael Caplan, Economic Development, 981-7530

## Action Calendar – Public Hearing

47. **Renewal: Elmwood Theater Business Improvement Area Assessments**  
**From: Elmwood Advisory Board**  
**Recommendation:** Conduct a public hearing and upon conclusion, if no majority protest exists, adopt a Resolution to confirm the Annual Assessment Report for the Elmwood Theater Business Improvement Area for FY 2010 and levy assessments in the Area for FY 2011.  
**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
48. **Assessments: Telegraph Property and Business Improvement District**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, if no majority protest exists, adopt a Resolution confirming the Annual Report on the Telegraph Property and Business Improvement District for FY 2010 and levying assessments in the District for FY 2011.  
**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
49. **ZAB Appeal: 2421 Ninth Street**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution dismissing the appeal and approving Use Permit #05-10000084 to construct a two-story, 1,279 square-foot, detached dwelling unit with a reduced rear yard setback of 10 feet at the rear of a 6,500 square-foot lot with an existing single-family dwelling unit, consistent with the Zoning Adjustment Board (ZAB) approval of May 14, 2009.  
**Financial Implications:** None  
Contact: Dan Marks, Planning and Development, 981-7400

## Action Calendar – Old Business

50. **Downtown Area Ballot Measure General Plan Amendments and CEQA Findings**  
**a. From: City Manager**  
**Recommendation:** For the proposed Downtown Area Ballot Measure to be included on the November 2010 ballot, adopt:
1. Resolution certifying the Downtown Area Plan EIR, adopting an addendum to the EIR, adopting findings of Fact regarding environmental impacts, mitigation measures, alternatives and overriding considerations, adopting a mitigation monitoring and reporting program.
  2. Resolution amending the General Plan and bringing it into conformance and consistent with the proposed Ballot Measure contingent on passage of the ballot measure by the voters.
- Financial Implications:** None  
Contact: Dan Marks, Planning and Development, 981-7400

## Action Calendar – Old Business

**b. From: Mayor Bates and Councilmembers Moore, Capitelli and Maio**

**Recommendation:** Place on the 2010 Ballot, a measure for voter approval adopting a Green Vision for the downtown, designating the Downtown Plan Area, adopting certain policies for the downtown, and stating the voters' intention that the Council adopt a Downtown Area Plan that implements that green vision and voter-adopted policies

**Financial Implications:** See report

Contact: Tom Bates, Mayor, 981-7000

**51. Place Medical Marijuana Ordinance Amendments on the November 2010 Ballot**  
(Continued from July 6, 2010)

**From: City Manager**

**Recommendation:**

In response to the City Council's discussion regarding Medical Marijuana regulations and taxation, consider and approve language for 2 ordinances to place on the ballot in November 2010, (1) Business License Tax Amendments; and (2) Amendment of regulations governing Medical Cannabis.

**Financial Implications:** \$310,000 from business license tax amendments

Contact: Zach Cowan, City Attorney, 981-6950

**52. Setting the Schedule, Deadlines, and Policy for the Filing of Ballot Measure Arguments: November 2, 2010 General Municipal Election**

**From: City Manager**

**Recommendation:** Adopt Resolutions placing three measures on the November 2, 2010 ballot and setting the schedule, deadlines, and policies for the filing of ballot measure arguments.

1) Adopt a Resolution submitting a measure regarding the Downtown Area Plan to the voters of Berkeley at the November 2, 2010 General Municipal Election.

2) Adopt a Resolution submitting a measure to increase the tax rate on cannabis businesses to the voters of Berkeley at the November 2, 2010 General Municipal Election.

3) Adopt a Resolution submitting a measure to amend the City ordinance pertaining to Medical Marijuana to the voters of Berkeley at the November 2, 2010 General Municipal Election.

4) Adopt a Resolution setting the schedule, deadlines, and policies to file ballot measure arguments for city measures placed on the ballot at the November 2, 2010 General Municipal Election.

5) Determine whether to designate, by motion, specific members of the Council to file ballot measure arguments on each measure placed on the ballot as provided for in Elections Code Section 9282.

**Financial Implications:** None

Contact: Deanna Despain, City Clerk, 981-6900

## Action Calendar – Old Business

53. **Support ACLU Concerns About Punitive Interpretations of UC Student Conduct Code** (*Continued from June 29, 2010*)  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to the UC Berkeley Chancellor supporting the ACLU's concerns about punitive interpretations of the UC Student Conduct Code.  
**Financial Implications:** Minimal  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
54. **Oppose Social Security and Medicare Solvency Commission Act (S. 276)** (*Continued from June 22, 2010 and July 6, 2010*)  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter urging Senator Feinstein to withdraw this damaging bill or amend it to benefit the important needs of our senior citizens and people with disabilities and to send letters to Senator Boxer and Congresswoman Lee asking them to please oppose S. 276.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Action Calendar – New Business

55. **Voting Delegates - League of California Cities Annual Conference**  
**From: City Manager**  
**Recommendation:** Designate a voting delegate and alternate for the business meeting of the Annual League of California Cities meeting to be held on Friday, September 17, 2010, at the San Diego Convention Center.  
**Financial Implications:** General Fund - \$550 per person  
Contact: Deanna Despain, City Clerk, 981-6900
56. **Discussion and Possible Action Regarding a Funding Reservation for Ashby Arts**  
**From: City Manager**  
**Recommendation:** If the Council desires to reauthorize a Housing Trust Fund (HTF) reservation for Ashby Arts, approve the attached resolution and direct the City Manager to continue to work with the developers to secure sufficient funding to construct the project.  
**Financial Implications:** See report  
Contact: Jane Micallef, Housing, 981-5400
57. **Housing Trust Fund Reservation for Satellite Housing for the Acquisition of the Prince Hall Arms Senior Housing Site**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving a funding reservation from the Housing Trust Fund in the amount of \$497,000 for acquisition of the property located at 3135 Harper Street.  
**Financial Implications:** See report  
Contact: Jane Micallef, Housing, 981-5400

## Action Calendar – New Business

### 58. Willard Pool Status Update and Budgetary Considerations to Prevent Closure

#### a. From: City Manager

**Financial Implications:** See report

Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700

#### b. From: Councilmember Worthington

**Recommendation:** Initiate immediate consideration of short term, medium term, and possible long term solutions to prevent the Willard Pool from closing.

Option #1. Re-allocate funding from one street in District 7 or 8 which is scheduled to be repaved during this fiscal year.

Option #2. Re-allocate funding from any other possible source designated by the City Manager from salary savings, unbudgeted interest earnings, retirements, or other accounting solutions.

Option #3. Provide transportation from Willard Pool to other pools to minimize loss of service to this area and to increase revenue streams for other city pools. This could take the form of bus passes or carpools or vanpools or any potential affordable transportation options.

Option #4. Initiate immediate talks with the BUSD to explore any possibilities small or large that might mitigate or prevent the loss of Willard Pool and the Warm Water Pool.

**Financial Implications:** Unknown.

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

#### c. From: Councilmembers Wozniak, Wengraf and Worthington

**Recommendation:** Direct the City Manager to send a letter to the Berkeley Unified School District Board of Education asking them to include \$4 million in funds for the capital costs to renovate the existing pool and associated facilities at Willard School in their November 2010 bond measure.

**Financial Implications:** Unknown

Contact: Gordon Wozniak, Councilmember, District 8, 981-7180

### 59. Nomination of Berkeley Iceland for Listing in the National Register of Historic Places

#### a. From: Landmarks Preservation Commission

**Recommendation:** Forward the LPC report supporting the nomination of Berkeley Iceland 2727 Milvia Street for National Register listing to the California State Office of Historic Preservation.

**Financial Implications:** See report

Contact: Jay Claiborne, Commission Secretary, 981-7400

#### b. From: City Manager

**Recommendation:** Send a letter to the California State Office of Historic Preservation stating that the City Council has no comment on the nomination of Berkeley Iceland 2727 Milvia Street for national register listing because the local historic designation of the property is being reconsidered.

**Financial Implications:** See report

Contact: Dan Marks, Planning and Development, 981-7400

## Action Calendar – New Business

- 60. Odor Management at Pacific Steel Casting and Air District Enforcement**  
**a. From: Community Environmental Advisory Commission**  
**Recommendation:** Direct the City Manager to write to the Board of Directors of the Bay Area Air Quality Management District (AQMD) to reflect the CEAC action below and specifically to ask them to: a. Request the AQMD rescind its acceptance of the recently court-ordered released Odor Management Plan and ask for public input before accepting the next update. b. Review the action of the AQMD that resulted in the removal of an unconditional order of abatement against Pacific Steel Casting in a public hearing in Berkeley in 2000.  
**Financial Implications:** None  
Contact: Nabil Al-Hadithy, Commission Secretary, 981-7400
- b. From: City Manager**  
**Recommendation:** Send a letter to the Board of Directors of the Bay Area Air Quality Management District (District) requesting active, independent monitoring of odor complaints.  
**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400
- 61. Installation of Automatic Gas Shut-off Valves Recommendation**  
**a. From: Disaster and Fire Safety Commission**  
**Recommendation:** The Disaster and Fire Safety Commission concurs with the staff recommendation for the adoption of a mandatory ordinance requiring the installation of automatic gas shut off valves for residential buildings when newly constructed and when remodeling exceeds \$50,000 in valuation. Further, the commission recommends waiver of permit fees to encourage installation.  
**Financial Implications:** See report  
Contact: Sabina Imrie, Commission Secretary, 981-5502
- b. Installation of Automatic Gas Shut-off Valves**  
**From: City Manager**  
**Recommendation:**  
1. Adopt an Ordinance adding new Section 19.36.040, amending the Berkeley Plumbing Code Section 1210.1 requiring the installation of automatic gas shut off valves for newly constructed buildings or when remodeling exceeds \$50,000 in valuation in existing buildings, with certain exceptions.  
2. Adopt a Resolution setting forth findings of local conditions that require more stringent regulations than those provided by the 2007 California Building Code.  
**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400

## Council Action Calendar

- 62. Appointment of a Representative to the Alameda County Transportation Commission**  
**From: Mayor Bates**  
**Recommendation:** Consider for appointment, Laurie Capitelli or Kriss Worthington as the City Council's representative and alternate to the Alameda County Transportation Commission.  
**Financial Implications:** None  
Contact: Tom Bates, Mayor, 981-7100

## Council Action Calendar

- 63. Request to Have a Workshop on July 13, 2010 to Discuss a Proposed Sunshine Ordinance**  
**From: Councilmember Arreguin**  
**Recommendation:** Hold a workshop on July 13, 2010 to discuss previously proposed sunshine ordinances and submit a new Sunshine Ordinance proposal to Council.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

## Information Reports

- 64. Update on Mental Health Adult Clinic Surprise Cash Count Audit**  
**From: City Manager**  
Contact: Peggy Gibbons, Health Services, 981-5100
- 65. Update on Medi-Cal Mental Health Audit**  
**From: City Manager**  
Contact: Peggy Gibbons, Health Services, 981-5100
- 66. ~~\*\*Removed by City Manager\*\*~~Council Referrals and Land Use Planning Work Program Priorities**  
**From: City Manager**  
Contact: Dan Marks, Planning and Development, 981-7400
- 67. 9<sup>TH</sup> Annual Peace Lantern Ceremony—August 7, 2010**  
**From: Peace and Justice Commission**  
Contact: Eric Brenman, Commission Secretary, 981-5100

## Public Comment – Including Items Not Listed on the Agenda –

### Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc., 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

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City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@ci.berkeley.ca.us](mailto:clerk@ci.berkeley.ca.us)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 8, 2010.*

A handwritten signature in black ink, appearing to read 'Deanna Despain'.

Deanna Despain, City Clerk

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Item 59: Nomination of Berkeley Iceland for Listing in the National Register of Historic Places**

1. Kristina Lawson, Miller Starr Regalia

### **Supporting a Department of Peace and the Youth PROMISE Act**

2. Stephanie Thomas

### **Nuclear Free Waiver for 3M Contract**

3. Eric Brenman, on behalf of the Peace & Justice Commission

